

Testimony in support of HB1228 - Exemption for Cap

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Position: FAV

HB1128_RichardKaplowitz_FAV

03/10/2026

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TESTIMONY ON HB#1228 - POSITION: FAVORABLE

Insurance - Premium Receipts Tax - Exemption for Captive Insurance Procured by Nonprofit Hospitals and Health Care Systems

TO: Chair Bartlett, Vice Chair Davis and members of the Judiciary Committee

FROM: Richard Keith Kaplowitz

My name is Richard Kaplowitz. I am a resident of District 3, Frederick County. I am submitting this testimony in support of/ HB#/1228, Insurance - Premium Receipts Tax - Exemption for Captive Insurance Procured by Nonprofit Hospitals and Health Care Systems

Captive insurance is a form of self-insurance where a company creates its own licensed insurance subsidiary to cover its own risks, rather than purchasing policies from third-party carriers. It offers businesses greater control over coverage, reduced costs, improved cash flow, and potential tax advantages, allowing them to retain underwriting profits.¹

Key Aspects of Captive Insurance

- **Purpose, Structure** Types: [Single-parent captive](#) or [Group captive](#)
- **Advantages: Cost Savings, Tailored Coverage, Risk Control, Cash Flow**
- **Common Industries:** Often used by companies with unique risks, such as manufacturing, transportation, healthcare, and construction.

This bill will affect premiums on lawfully procured captive insurance by a nonprofit health care system located in the state, including premiums paid by the system's parent entity, any subsidiary entity, or any constituent health care provider; or a nonprofit hospital located in the state.

The bill will accomplish this by exempting premiums on lawfully procured captive insurance by nonprofit hospitals and health care systems located in the State from the State insurance premium receipts tax imposed on unauthorized insurers and persons insured by unauthorized insurers; and prohibiting the Maryland Insurance Administration from charging or collecting a certain tax or certain fees, penalties, or interest from certain unauthorized insurers and certain insureds.

I respectfully urge this committee to return a favorable report on HB1228.

¹ Google AI Search "what is captive insurance"

HB 1228- Insurance- Premium Receipts Tax - Exempti

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Position: FWA



Maryland
Hospital Association

**House Bill 1228- Insurance - Premium Receipts Tax - Exemption for Captive Insurance
Procured by Nonprofit Hospitals and Health Care Systems**

Position: *Support with Amendments*

March 10, 2026

House Ways & Means and House Health Committees

MHA Position

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment in support with amendments of House Bill 1228.

HB 1228, with proposed amendments, would create a clear, modern framework for how hospital-based captive insurance programs are treated under Maryland law. The bill confirms that when hospitals set aside their own money into a captive to prepare for future risks, that activity is not taxed. However, when hospitals use those funds to purchase actual insurance from an outside insurer, they will pay the existing 3% premium receipts tax. This structure both modernizes the law and increases state tax revenue through transactions that are not consistently taxed today, while preserving hospital financial stability and avoiding higher costs for patients.

This bill is a product of extensive conversations between the MIA, MHA, and Maryland hospitals that ensures the fair application of Maryland taxes while preserving the financial stability hospitals need to protect patients. The proposed amendments make the bill achieve this intent and therefore will change the fiscal impact, as described in the current fiscal note, from losing revenue to **positively increasing state tax revenue.**

Hospital-based captives are an important tool that hospitals use to manage risk in a way that protects patients and strengthens the quality of care. A captive is a separate company created by a hospital to hold money the hospital sets aside each year for potential future claims—like a dedicated safety fund. Hospitals contribute money into this fund each year, based on actuarial estimates of what future liability might be. Because hospitals face high levels of risk, these savings must be set aside in a structured, regulated way. If a patient is injured and the hospital is responsible, the money in the captive is used to pay the claim. If claims do not occur that year, the money stays within the health system and can be used to improve patient safety, reduce the chance of future harm, and support the hospital workforce.

Captives are especially important because hospitals carry risks that are very difficult or extremely expensive to insure through traditional insurance companies. These risks include medical malpractice liability, especially in areas such as obstetrics, neurosurgery, trauma services, and emergency care. They also include modern cybersecurity risks such as ransomware

attacks, data breaches, and failures of electronic medical records systems. Because traditional insurance companies often will not cover these risks or will only do so at unaffordable prices, hospitals need a reliable way to prepare financially for them. Captives fill this gap so that patients can continue to rely on critical services even when the commercial market cannot support those risks.

One of the major benefits of captives is that hospitals can use the unspent funds to make care safer. For example, captive reserves can support investments in patient-safety technology, such as improved monitoring systems, safer medication management tools, or new equipment designed to reduce medical errors. Hospitals can also use captive-supported funds to expand staff training programs that reduce harm, such as simulation training for surgical teams, education for nurses on high-risk procedures, or programs that help prevent falls, infections, and other avoidable complications. Captives also allow hospitals to conduct internal risk reviews and quality audits, which identify areas where improvements can reduce the likelihood of future injuries. In this way, captives help hospitals prevent harm before it occurs. Captives also help ensure dedicated funds are always available to compensate patients if an injury happens. Unlike commercial insurance premiums, which disappear once paid, funds in a captive remain available year after year. The hospital is fully responsible for paying any claims, and the captive provides a structured way to make sure those resources are there when patients need them.

Maryland's unique, regulated hospital payment system makes this stability especially important. The Health Services Cost Review Commission sets hospital rates and sets annual revenue for every Maryland hospital and health system. Hospitals cannot raise prices or seek new revenue to absorb unexpected costs. This means that any newly imposed or unanticipated expense must be absorbed directly into the hospital's fixed budget. Every dollar hospitals spend on unexpected costs reduces the resources available for patient care, staffing, technology, and safety improvements. A clear, predictable framework for how captives are treated under Maryland law is essential to ensure hospitals can continue providing high-quality care in every community.

Recently, the MIA and Maryland hospitals have had conversations about how premium receipts taxes should apply to Maryland hospitals' use of captives. HB 1228, as amended, establishes a clear, fair framework, based on those conversations, on how these taxes should apply to Maryland hospitals' use of captives. **When hospitals are simply setting aside their own money into a captive to self-insure, that activity is not taxed. When hospitals use those captive funds to buy insurance from an outside insurer, they pay the state's existing 3% premium receipts tax.** This distinction reflects the reality of how captives operate, aligns the tax code with actual insurance transactions, and creates a stable system that works for both hospitals and the state.

By passing this legislation and adopting these amendments, the Committee will support patient safety, protect access to essential services, strengthen Maryland's health care system, and generate new ongoing revenue for the state without raising costs for Maryland families.

For these reasons, MHA urges a favorable with amendments report on HB 1228.

For more information, please contact:
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Proposed Amendments and Explanations:

Amendment 1: On page 2, strike §4-209(a)(3).

Amendment 2: On page 3, strike §4-211(a)(1).

Explanation for Amendments 1 and 2: These amendments restore §4-209 and §4-211 to their original structure.

Amendment 3: In §4-209 and §4-211, add a new section (A). (A) IN THIS SECTION, NONPROFIT HEALTH SYSTEM MEANS: (1) A NONPROFIT HOSPITAL AND ANY ENTITY AFFILIATED WITH THE HOSPITAL THROUGH OWNERSHIP, GOVERNANCE, MEMBERSHIP, CONTRACT, OR OTHER MEANS; (2) A PARENT CORPORATION OF ONE OR MORE NONPROFIT HOSPITALS AND ANY ENTITY AFFILIATED WITH THE PARENT CORPORATION THROUGH OWNERSHIP, GOVERNANCE, MEMBERSHIP, CONTRACT, OR OTHER MEANS;

Explanation: This creates a clear definition of hospitals and health systems as well as their affiliated entities. This amended definition will ensure that all captive insurers owned by non-profit hospitals, health systems, and their affiliated entities are subject to the 3% tax on premiums paid by the captive insurer or nonprofit health system.

Amendment 4: Amend §4-209(b)(1) as follows: (b)(C) (1) (I) **EXCEPT AS PROVIDED IN SUBSECTION (II)**, if an unauthorized insurer effects, continues, or renews insurance on a subject resident, located, or to be performed in the State, the unauthorized insurer shall pay to the Commissioner before March 1 a premium receipts tax of 3% of gross premiums. **(II) FOR UNAUTHORIZED INSURERS, INCLUDING CAPTIVE INSURERS, OF NONPROFIT HEALTH SYSTEMS FOR WHICH MARYLAND IS THE HOME STATE, THE UNAUTHORIZED INSURER SHALL PAY THE COMMISSIONER, BEFORE MARCH 1 OF THE NEXT CALENDAR YEAR, A PREMIUM RECEIPTS TAX OF 3% OF THE GROSS PREMIUMS THAT THE UNAUTHORIZED INSURER OR THE NONPROFIT MEDICAL SYSTEM IS CHARGED BY A REINSURER TO COVER A PORTION OF THE LIABILITY OF THE UNAUTHORIZED INSURER.**

Explanation: This amendment clarifies that nonprofit health systems or their captive insurers are responsible for paying the 3% tax on premiums charged by a reinsurer, not on the funds paid by nonprofit health systems to their captives. This amendment directly addresses the fiscal note and ensures this bill will generate positive tax revenue for the state.

Amendment 5: Amend §4-211(b)(1) and add subsection §4-211(C)(3), as follows: (b)(C) (1) **EXCEPT AS PROVIDED IN SUBSECTION (3)**, If an insured procures, continues, or renews insurance from an unauthorized insurer that is subject to a report under § 4-210 of this subtitle, a premium receipts tax of 3% of the gross premiums charged for the insurance is levied on the obligation, chose in action, or right represented by the premium charged for the insurance. (2) If an insurance contract subject to the tax is canceled and rewritten, the additional premium, for purposes of the premium receipts tax, is the premium in excess of the unearned premium of the canceled insurance contract. (3) **FOR UNAUTHORIZED INSURERS, INCLUDING CAPTIVE INSURERS, OF NONPROFIT HEALTH SYSTEMS FOR WHICH MARYLAND IS THE HOME STATE, THE UNAUTHORIZED INSURER OR NONPROFIT HEALTH SYSTEM SHALL PAY THE COMMISSIONER, BEFORE MARCH 1 OF THE NEXT CALENDAR YEAR, A PREMIUM RECEIPTS TAX OF 3% OF THE GROSS PREMIUMS THAT THE UNAUTHORIZED INSURER OR THE NONPROFIT MEDICAL SYSTEM IS CHARGED BY A REINSURER TO COVER A PORTION OF THE LIABILITY OF THE OF THE UNAUTHORIZED INSURER.**

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HB 1228 - FWA - UMMS.pdf

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Position: FWA

**House Bill 1228 – Insurance – Premium Receipts Tax – Exemption for Captive Insurance
Procured by Nonprofit Hospitals and Health Care Systems**

POSITION: Favorable with Amendments

March 10, 2026

House Ways and Means Committee

The University of Maryland Medical System (“UMMS”) supports House Bill 1228 – Insurance – Premium Receipts Tax – Exemption for Captive Insurance Procured by Nonprofit Hospitals and Health Care Systems, with the amendments proposed by the bill sponsor. House Bill 1228 (“HB 1228”), as amended by the sponsor would (1) levy a tax of 3 percent of the gross premium charged by a reinsurer to cover liability on a captive insurer owned by a nonprofit hospital or health system and (2) clarify that premiums on captive insurance procured by nonprofit hospitals and health systems in the State are not subject to the State’s insurance premium receipts tax imposed on unauthorized insurers.

What is captive insurance?

Captive insurance is a form of self-insurance and financial risk management where a company – the captive insurer – is wholly owned and controlled by the entity that it insures. A captive insurer provides insurance exclusively for its owners, which put their own capital at risk in forming the captive insurer. Captives do not sell "insurance" because they do not ultimately transfer risk away from the insured; instead, they provide a reliable and less costly means to structure risk management and preserve financial stability.

Why establish a captive insurer?

As a non-profit health system with a charitable and academic mission, UMMS must carefully manage its liability risk in Maryland, which has one of the most challenging litigation environments in the nation. This environment causes commercial insurance to be unaffordable and renders self-insurance as the only practical alternative for risk management. UMMS established its captive vehicle to set aside a funding reserve that could be used to provide self-insurance and purchase reinsurance, which it does under the direction of an UMMS-appointed Board.

Importantly, captives are not “insurance” in the traditional sense contemplated by federal and state law because they do not transfer risk from the insured to a third-party insurer. Rather, captives facilitate self-insurance and the purchase of reinsurance for the health system’s self-insurance risk, but the underlying risk remains with and is managed by UMMS. Numerous jurisdictions recognize this distinction. The Internal Revenue Service has consistently concluded that captive arrangements do not constitute “insurance” for federal tax purposes, and several

states explicitly delineate how and when their insurance laws apply to captive entities and transactions.

In Maryland, for several decades, nonprofit hospitals and health systems in the State have operated captive insurers as a cost-effective means of providing self-insurance. Over this period, the State's premium receipts tax (3 percent of gross premiums charged for the insurance) has not applied to captive insurance policies held by nonprofit hospitals and health systems because these vehicles are not regulated by the State, the captive insurers are not selling commercial insurance, and hospitals and health systems are not deducting the funding payments made to the captive on its federal or state income tax returns.

HB 1228 is clarifying in nature. The bill, as amended, clarifies that Maryland's premium receipts tax on insurance policies procured from unauthorized insurers does not apply to captive insurers owned by nonprofit health systems and hospitals that exclusively operate to finance and administer the risks of the hospital or health system. The bill, as amended, is also consistent with the longstanding practice by the Maryland Insurance Administration (MIA) and nonprofit hospitals and health systems in the State. The MIA, which recently conducted preliminary inquiries into whether certain hospitals may be subject to the tax, worked collaboratively with the Maryland Hospital Association and hospitals and health systems in the State to craft the language of this bill to more clearly reflect the reality that these captive arrangements are not the type of commercial insurance transactions that the statute was designed to tax.

HB 1228 provides needed statutory clarity and avoids unintended financial consequences for nonprofit health systems that rely on captives as prudent risk-financing tools. By reaffirming the proper scope of the premium receipts tax, this bill protects hospital resources that are better directed toward patient care.

For these reasons, the University of Maryland Medical System supports HB 1228 with the sponsor amendments, and respectfully requests a *favorable* report on the bill.

For more information, please contact:

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HB1228_ProtectedWhistleblower_Unfavorable2.pdf

Uploaded by: Protected Whistleblower Protected Whistleblower

Position: UNF

Testimony of a Protected Whistleblower

HB1228 – Premium Receipts Tax Exemption

I offer this testimony as a whistleblower protected under Maryland’s Whistleblower Rewards Program, [Maryland Tax-General Code §1-401](#), *et seq.* Maryland adopted this first-of-its-kind state tax whistleblower program effective October 1, 2021. As the first whistleblower under this program, I have provided the State with evidence that sixteen nonprofit hospitals established offshore for-profit subsidiaries selling unlicensed and unlawfully untaxed insurance in the State of Maryland.

HB 1288 would retroactively exempt these hospitals and their Cayman Islands subsidiaries from any obligation to pay the Maryland premium receipts tax at considerable cost to the Maryland taxpayer. HB 1228 should not become law.

The Hospitals Have Been Well Aware of their Tax Obligations for Years

Of course, the hospitals understood the state and federal tax implications of setting up their for-profit insurance businesses in the Cayman Islands. Indeed, in 2018 the Cayman Islands Captive Forum specifically advised its captive owners that:

- “State premium tax – known as (i) ‘direct placement’ tax or (ii) ‘self-procurement tax’ or (iii) ‘independently procured insurance’ tax would apply (about 30 states impose this type of tax) with a 3% typical rate.” ([page 17](#) and attached as an exhibit).
- “As states look for more revenue, auditors are assessing self-procurement taxes on captive arrangements at an increasing rate.” ([page 49](#) and attached as an exhibit).

A retroactive exemption such as that proposed in HB 1228 would encourage other Maryland businesses to violate the law first and ask for forgiveness from the legislature later. Other states such as [Florida](#) and [Washington](#) aggressively enforce this tax – and [Minnesota](#) has rejected a bill similar to that proposed here.

HB 1228 Undermines the Credibility of the State’s Whistleblower Rewards Program

The legislature established the Whistleblower Reward Program to encourage citizens to investigate and report unpaid taxes. Based on the promise of a reward for success, I invested thousands of hours into research and tens of thousands of dollars to purchase corporate records from all over the world which I used to track down these and other tax scofflaws. Having done my part under the program, HB 1228’s retroactive exemption threatens to retroactively deny the reward promised to me as a whistleblower. No rational person would participate in Maryland’s whistleblower program again if this legislature permits such a precedent to be set.

HB 1228 Directly Benefits Cash-Rich Cayman Islands Insurance Companies

HB 1228 first and foremost is a tax break directed to for-profit Cayman Islands insurance companies (and one Bermuda insurance company) each of which holds a mountain of cash:

	Off-Shore For-Profit Insurance Company	Domicile	Offshore Assets
1	Bon Secours Mercy Health Insurance Co.	Cayman Islands	\$532 million
2	Cathedral Insurance Company Limited	Cayman Islands	\$163 million
3	Christiana Care Insurance Company Ltd.	Cayman Islands	\$100.8 million
4	Cottage Insurance Company, Ltd.	Cayman Islands	\$66 million
5	Delmarva Peninsula Insurance Company	Cayman Islands	\$32 million
6	Greenleaf Insurance Company, Ltd.	Cayman Islands	\$215.7 million
7	Greenspring Financial Insurance, Ltd.	Cayman Islands	\$299 million
8	Health Enterprises Insurance Company, Ltd.	Cayman Islands	\$200 million
9	Lifefridge Insurance Company, Ltd.	Cayman Islands	\$134 million
10	Meritus Insurance Company, Ltd.	Cayman Islands	\$29 million
11	Monocacy Insurance Ltd.	Cayman Islands	\$28.1 million
12	Ruxton Insurance Company, Ltd.	Bermuda	\$78 million
13	Sheppard Pratt Assurance Company Ltd.	Cayman Islands	\$7.2 million
14	Terrapin Insurance Company	Cayman Islands	\$460 million
15	Trinity Assurance Ltd.	Cayman Islands	\$804.9 million
16	Western Maryland Insurance Company Ltd.	Cayman Islands	\$23.7 million
		TOTAL	\$3,173,000,000

Maryland Hospitals Already Protect \$3 Billion from Maryland Tax

My investigation has revealed that Maryland's non-profit hospitals have transferred more than \$3 billion into their offshore for-profit captive insurance subsidiaries. This is money outside of the reach of Maryland's corporate income tax, already delivering the hospitals a massive tax savings on the profits derived from their for-profit activities in our State. HB 1228 is just an additional tax break on top of the corporate income tax breaks these hospitals already engineered by locating their insurance companies offshore.

HB 1228 Damages the Maryland Insurance Market

HB 1228 would reward hospitals for locating their for-profit insurance subsidiaries (and the money they hold) offshore. If HB 1228 becomes law, these Cayman Islands insurance company subsidiaries would owe a 0% premium tax. In contrast, an insurance company licensed in Maryland that insures a hospital would pay a 2% premium tax. Ins. Code § 6-102.

Maryland Faces Substantial Lost Revenue if HB 1228 becomes Law

My research indicates that the hospitals collectively owe the State between \$10 million and \$20 million in back taxes – and some \$2 million per year going forward. Maryland does not have the extra revenue available to favor offshore for-profit enterprises that have operated in the state without a license and without paying the taxes they owe.

TAX CONSIDERATIONS- OFFSHORE CAPTIVES

- **Premiums paid generally not subject to a federal excise tax (4% of the premium for direct insurance and 1% for reinsurance or life insurance)**
 - Except for premiums from unrelated voluntary physicians or entities
- **Can avoid attribution of any “unrelated business taxable income” to captive’s tax-exempt parent**
 - Except for insurance income from unrelated voluntary physicians or entities
- **State premium tax - known as (i) “direct placement” tax or (ii) “self-procurement” tax or (iii) “independently procured insurance” tax would apply (about 30 states impose this type of tax) with 3% rate typical**



STATE TAX CONSIDERATIONS

- U.S. domiciled captives are typically subject to state tax on their gross receipts / premiums received that are sourced to that state
- Foreign domiciled captives are not subject to U.S. state premium tax
- However, many states impose a direct procurement / self-procurement tax or tax on unauthorized insurers (there have been constitutional law challenges to such taxes)
- These taxes are often applied at the insured level (similar to a sales tax) in lieu of taxing the captive's income at the captive level
- As states look for more revenue, auditors are assessing self-procurement taxes on captive arrangements at an increasing rate
- Self-procurement tax is generally levied based upon where the contract of insurance is entered into, as opposed to where the risk is based (e.g., Todd Shipyards)
- Careful planning and execution of the insurance procurement process can bolster filing positions followed in connection with self-procurement taxes
- Even states without a self-procurement tax should be monitored in light of the recent *Microsoft* matter in which the taxpayer agreed to pay premium taxes to the state of Washington for transactions involving a non-resident captive

HB 1228 - MIA - LOI.pdf

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Position: INFO

WES MOORE
Governor

ARUNA MILLER
Lt. Governor



Maryland
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Date: March 10, 2026

Bill # / Title: House Bill 1228 - Insurance - Premium Receipts Tax - Exemption for Captive Insurance Procured by Nonprofit Hospitals and Health Care Systems

Committee: House Ways and Means Committee

Position: Letter of Information

The Maryland Insurance Administration (MIA) appreciates the opportunity to share this Letter of Information relating to House Bill 1228.

House Bill 1228 concerns taxes imposed on insurance premiums paid by nonprofit hospitals and health care systems under Title 4, Subtitle 2 of the Insurance Article, which addresses general requirements for unauthorized insurers. An “unauthorized insurer” is an insurer that operates in the State and does not have a certificate of authority from the MIA. A captive insurer is a type of insurer that is usually a wholly owned subsidiary of a parent organization created for the purpose of insuring risks of the parent organization or its affiliates. Captive insurers are usually also unauthorized insurers as they do not have a certificate of authority from the MIA, though they are often licensed in other jurisdictions. Captive insurance allows organizations to reduce costs, gain coverage tailored to their needs, and access reinsurance markets. There are usually also tax advantages associated with use of a captive insurer, as opposed to a traditional insurance provider.

Both authorized insurers and unauthorized insurers pay a premium receipts tax in lieu of State corporate income taxes. The MIA collects premium receipts taxes from insurers and deposits that tax revenue into the State General Fund. Section 4-209 of the Insurance Article requires that an unauthorized insurer (including a captive insurer) that effects, continues, or renews insurance on a subject located in the State pay a premium receipts tax of 3% of gross premiums charged for the insurance. Section 4-211 provides that if an unauthorized insurer fails to pay premium receipts tax due under § 4-209, the insured is responsible for paying it.

House Bill 1228 would amend §§ 4-209 and 4-211 of the Insurance Article to exempt premiums on captive insurance procured by nonprofit hospitals and health care systems located in Maryland from the 3% insurance premium receipts tax imposed on unauthorized insurers and persons insured

by unauthorized insurers. Additionally, uncodified language in the bill would prohibit the MIA from taking action to collect unpaid captive insurance premium tax liabilities that such entities should have paid in prior years, as well as any resultant penalties or interest that may be assessed pursuant to current law. Although the exact figure is unknown, the bill as introduced would result in a reduction in premium tax revenues that the MIA deposits to the State General Fund each year.

The MIA is working with the sponsor and the Maryland Hospital Association to develop amendments to the bill that would more clearly define captive insurance premium tax liabilities and what constitutes insurance business for nonprofit hospitals and health care systems. These amendments may mitigate the future fiscal impact of the bill.

The MIA thanks the Committee for the opportunity to share this information concerning House Bill 1228.